

EXHIBITA

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

Martha Jane Toy, individually, and as Executrix and)	
Personal Representative of the Estate of Russell B. Toy,)	
deceased,)	
)	
Plaintiffs,)	
v.)	C.A. No. 05-00760 (JJF)
Plumbers & Pipefitters Local Union No. 74 Pension)	
Plan, Trustees of Plumbers & Pipefitters Local Union)	
No. 74 Pension Plan, Health and Welfare Plan, Local 74,)	
Welfare Benefit Plan, Life Insurance Plan, Local 74,)	
Welfare Benefit Plan, Life Insurance Plan, Local 74,)	
Insurance Plan, Administrators of Pension and Welfare)	
Plans, Trustees of Plumbers & Pipefitters Local Union)	
No. 74 Welfare Plan, Plan Administrator of Pension &)	
Welfare Plans, Insurance Plans, and Health and Welfare)	
Benefit Plan,)	
)	
Defendants.		

AFFIDAVIT OF SCOTT A. ERNSBERGER

STATE OF DELAWARE)
) ss:
COUNTY OF NEW CASTLE)

The undersigned, being duly sworn according to law, does hereby depose
and say:

1. I am employed by GEMGroup LP ("GEMGroup") whose office is
located at the Brandywine Corporate Center, 650 Naamans Road, Suite 303, Claymont,
Delaware 19703.
2. I am the Manager of Delaware Valley Operations and an Account
Executive.

3. I am the Account Executive in charge of the Plumbers & Pipefitters Local Union No. 74 Pension Plan ("Pension Plan") and the Plumbers & Pipefitters Local Union No. 74 Welfare Plan ("Welfare Plan") accounts at GEMGroup (collectively the "Funds") and have been since 1990.

4. There are no other Plans that are named as defendants in this case in existence relating to the Plumbers & Pipefitters Local Union No. 74 and none of the other alleged plans listed in the Complaint filed by Mrs. Toy actually exist. Any benefits Mrs. Toy is entitled to would be provided by the Pension Plan and/or Welfare Plan.

5. Each of the Funds is a Taft-Hartley multi-employer plan that was established pursuant to the Collective Bargaining Agreement between the Plumbers & Pipefitters Local Union No. 74 ("Union") and the Delaware Mechanical Contractors Association ("Association"). Participation in the Funds is limited to those individuals who are members of the Union in Delaware and otherwise qualify for participation.

6. The Joint Board of Trustees of the Funds ("Trustees") are appointed by the Union and the Association, each of whom appoint an equal number of representatives to serve as trustees. The Trustees are the plan sponsors of both the Pension Plan and Welfare Plan.

7. The Trustees are: John J. Czerwinski, Andrew S. Nowell, Anthony M. Papili, Kyle T. Spence, John D. Danielio, George Millar, Terrence M. Shannon, and Jeffrey A. Sill.

8. Effective January 1, 1985, the Trustees retained GEMGroup as the Fund Manager for the Funds. GEMGroup has acted as the Fund Manager continuously since 1985.

9. As Fund Manager, GEMGroup administers the Funds at its office in Claymont, Delaware. GEMGroup manages the business and day to day operations of the Funds in the Claymont, Delaware office.

10. The GEMGroup office in Claymont, Delaware is also the location of the physical records of the Funds.

11. The Funds are managed through regular bi-monthly meetings of the Trustees. All of the business of the Funds is conducted at these bi-monthly meetings of the Trustees including all decisions regarding the eligibility and qualification requirements of participants to receive Funds benefits, including all appeals to the Trustees regarding those decisions. These bi-monthly meetings are held in various locations in Delaware.

12. All decisions relating to benefits eligibility and, specifically, decisions relating to Russell Toy and Martha Toy were made exclusively in Delaware.

13. Russell B. Toy ("Mr. Toy"), deceased, was a member of the Union and a participant of the Pension Plan. Mr. Toy would have been eligible for pension benefits upon normal retirement. Prior to retirement, Mr. Toy applied for disability pension benefits. Mr. Toy did not conform to Pension Plan requirements and was considered not eligible for disability pension benefits. Upon further consideration, the Trustees made a decision to award Mr. Toy disability pension benefits. These benefits were awarded posthumously and were paid to Mrs. Toy retroactively from the date of Mr. Toy's claimed disability until his death. All such benefits were paid to Mrs. Toy at 1222 Slaughter Station Road, Hartly, Delaware 19953.

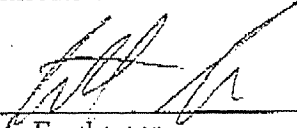
14. Martha J. Toy ("Mrs. Toy"), Mr. Toy's widow, currently receives survivor's benefits, in the amount of fifty percent (50%) of Mr. Toy's awarded monthly disability pension benefits, from the Pension Plan. The fifty percent (50%) survivor benefit has been paid to Mrs. Toy retroactively from the date of Mr. Toy's death.

15. Mr. Toy, while he was eligible for welfare benefits through the Welfare Plan for a time during his membership in the Union, was no longer a participant in the Welfare Plan, had not been a Welfare Plan participant for many years, did not conform with the Welfare Plan eligibility rules and was therefore not eligible for any welfare benefits.

16. The decisions to deny the Toys' application for additional pension benefits under the Pension Fund, survivor benefits under the Pension Fund, medical benefits under the Welfare Fund, and life insurance benefits under the Welfare Fund were made by the Trustees at meetings that occurred exclusively in Delaware.

17. During all relevant times Mr. and Mrs. Toy reported a Delaware address to the Funds and Mrs. Toy continues to report a Delaware address to the Funds.

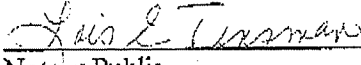
18. This Affidavit is based on my personal knowledge and/or information contained in the records of the Funds that are maintained by GEMGroup and are available for my review as the Account Executive.



Scott A. Ernsberger

SWORN TO AND SUBSCRIBED before me, this 5th day of DECEMBER, 2005.

LOIS E. TINSMAN
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires Oct. 18, 2007



Notary Public
My Commission Expires: Oct 18 2007